MONTANA LEGISLATIVE HISTORY

Chapter 80 19 93

Bill H 160 S _____ Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	Jan 19	✓ C	Hearing Date(s)	Feb 04	✓ C
	Jan 20	✓ C			C
		C			C
		C			C
Date Out	Jan 20	✓ C		Feb 04	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

CHAPTER NUMBER 314
EFFECTIVE DATE: 04/12/93

HB 159 INTRODUCED BY PAVLOVICH, ET AL.

REVISE DEFINITION OF "VETERAN"

1/13	INTRODUCED		
1/13	REFERRED TO STATE ADMINISTRATION		
1/13	FIRST READING		
1/20	HEARING		
1/21	COMMITTEE REPORT—BILL PASSED		
1/23	2ND READING PASSED	96	2
1/26	3RD READING PASSED	97	2
	TRANSMITTED TO SENATE		
1/28	FIRST READING		
1/28	REFERRED TO STATE ADMINISTRATION		
2/08	HEARING		
2/13	COMMITTEE REPORT—BILL CONCURRED		
2/15	2ND READING CONCURRED	49	0
2/16	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
2/19	SIGNED BY SPEAKER		
2/19	SIGNED BY PRESIDENT		
2/22	TRANSMITTED TO GOVERNOR		
2/24	SIGNED BY GOVERNOR		

CHAPTER NUMBER 78
EFFECTIVE DATE: 02/24/93

HB 160 INTRODUCED BY DEBRUYCKER

REQUIRE AGENCY OF U.S. GOVERNMENT TO PAY PROPERTY TAXES ON PROPERTY ACQUIRED THROUGH FORECLOSURE

1/13	INTRODUCED		
1/13	REFERRED TO TAXATION		
1/13	FIRST READING		
1/19	HEARING		
1/21	COMMITTEE REPORT—BILL PASSED		
1/23	2ND READING PASSED	95	2
1/26	3RD READING PASSED	95	1
	TRANSMITTED TO SENATE		
1/28	FIRST READING		
1/28	REFERRED TO TAXATION		
2/04	HEARING		
2/13	COMMITTEE REPORT—BILL CONCURRED		
2/15	2ND READING CONCURRED	49	0
2/16	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
2/19	SIGNED BY SPEAKER		
2/19	SIGNED BY PRESIDENT		
2/22	TRANSMITTED TO GOVERNOR		
2/25	SIGNED BY GOVERNOR		

CHAPTER NUMBER 80
EFFECTIVE DATE: 02/25/93

HB 161 INTRODUCED BY MASON

REVISE REAL ESTATE APPRAISER LICENSING LAW

BY REQUEST OF DEPARTMENT OF COMMERCE

1/13 INTRODUCED

HOUSE BILL NO. 160

INTRODUCED BY DEBRUYCKER

IN THE HOUSE

JANUARY 13, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
JANUARY 21, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 22, 1993	PRINTING REPORT.
JANUARY 23, 1993	SECOND READING, DO PASS.
JANUARY 25, 1993	ENGROSSING REPORT.
JANUARY 26, 1993	THIRD READING, PASSED. AYES, 95; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 28, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 13, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 15, 1993	SECOND READING, CONCURRED IN.
FEBRUARY 16, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 17, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

House BILL NO. 160

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE PAYMENT OF PROPERTY TAXES BY ANY DEPARTMENT OR AGENCY OF THE UNITED STATES WHEN THE DEPARTMENT OR AGENCY ACQUIRES INTEREST IN THE PROPERTY THROUGH FORECLOSURE; ALLOWING A COURT TO DIRECT THE PAYMENT OF PROPERTY TAXES AT THE TIME OF FORECLOSURE; AMENDING SECTIONS 15-6-201, 15-24-1103, AND 71-1-222, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-201, MCA, is amended to read:

"**15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States~~,--the--state,--counties,--cities,--towns,--school--districts~~, except:

(A) if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives); or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

~~(ii)~~(iii) irrigation districts organized under the laws of Montana and not operating for profit;

~~(iii)~~(iv) municipal corporations; and

~~(iv)~~(v) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a

cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) property owned by institutions of purely public charity and directly used for purely public charitable purposes;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public museums, art galleries, zoos, and observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. This property is also exempt from taxation under 61-3-504(2) and 61-3-537.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes, travel trailers, and campers;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit, and property owned and used by an organization owning and operating facilities for the care of the retired, aged, or chronically ill, which are not operated for gain or profit;

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100;

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic

events and not held or used for private or corporate gain or profit. For purposes of this subsection (q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) provided the tools are owned by the taxpayer, the first $15,000 or less of market value of tools that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, or other personal property;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105; and

(u) beginning January 1, 1994, timber as defined in 15-44-102.

(2) (a) The term "institutions of purely public charity" includes any organization that meets the following requirements:

(i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(ii) The organization accomplishes its activities through absolute gratuity or grants; however, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation or low

emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 2. Section 15-24-1103, MCA, is amended to read:

"**15-24-1103. Federal property held under lease.** When the property is held under lease, other interest, or estate therein that is less than the fee, except under contract of sale, the property ~~shall~~ must be assessed and taxed ~~as~~ for the value, as defined in Title 15, chapter 6, part 1, of ~~such~~ the leasehold, interest, or estate in the property. ~~and the~~ The lien for the tax ~~shall~~ must attach to and be enforced against only the leasehold, interest, or estate in the property. Whenever the interest in the property is acquired through foreclosure, the lessor is liable for property taxes. When the United States authorizes the taxation of the property for the full assessed value of the fee ~~thereof~~, the property ~~shall~~ must be assessed for full assessed value as defined in 15-8-111."

Section 3. Section 71-1-222, MCA, is amended to read:

"**71-1-222. Proceedings in foreclosure suits.** (1) There is ~~but~~ only one action for the recovery of debt or the

enforcement of any right secured by mortgage upon real estate, ~~which~~ and that action must be in accordance with the provisions of this part. In ~~such~~ the action, the court may, by its judgment, direct:

(a) a sale of the encumbered property (or ~~so~~ as much ~~thereof~~ of the property as may be necessary);

(b) the application of the proceeds of the sale, including the payment of property taxes due at the time of foreclosure; and

(c) the payment of the costs of the court, the expenses of the sale, and the amount due the plaintiff.

(2) If it appears from the sheriff's return that the proceeds are insufficient and a balance still remains due, judgment can then be docketed for ~~such~~ the balance against the defendant or defendants personally liable for the debt, and it becomes a lien upon the real estate of ~~such~~ the judgment debtor, as in other cases on which execution may be issued.

(3) ~~No~~ A person holding a conveyance from or under the mortgagor of the property mortgaged or having a lien ~~thereon~~ on the property, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action, does not need to be made a party to ~~such~~ the action. The judgment ~~therein rendered~~ and the proceedings ~~therein had~~ are as conclusive against the party holding ~~such~~

the unrecorded conveyance or lien as if he the holding party had been made a party to the action."

NEW SECTION. **Section 4.** **Effective date -- applicability.** [This act] is effective on passage and approval and applies to any foreclosures occurring after [the effective date of this act].

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on January 19, 1993, at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: Rep. Anderson

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 184, HB 160, HB 186,HB 154
Executive Action: None

The Committee heard a presentation on the Railroad Regulatory, Reform, and Revitalization Act (4R's Act) from **Ken Morrison, Administrator, Property Assessment Division, Department of Revenue (DOR). Mr. Morrison** reviewed the information in the attached **EXHIBITS #1 and #2.**

Questions From Committee Members and Responses:

REP. HARPER asked what impact the two proposed sales taxes have on the telecommunications industry.

Mr. Walker said telecommunications would not be exempt. The administration bill would tax the industry with no commensurate property tax relief.

REP. HARPER asked if this bill would be moot if the sales tax bill passes.

Mr. Walker said he did not know what form the proposed sales tax would ultimately take.

REP. HARPER asked if the Revenue Oversight Committee might not be a better committee to conduct the study.

Mr. Morrison said DOR used this same approach on the telephone license committee and it worked well. This committee would work under the direction of the Director with industry representatives and legislators comprising some members of the committee. Although loathe to assign ROC another study, Mr. Morrison said they would not object to an ROC study of the telecommunications tax.

REP. GILBERT said the committee should be selected and funded internally by DOR.

Mr.Morrison said it could be done internally. DOR wants the study to have legislative credibility which the bill would establish. Also, the bill also provides for travel reimbursement for non-governmental members of the committee.

Closing by Sponsor: **REP. NELSON** closed.

HEARING ON HOUSE BILL 160

Opening Statement by Sponsor:

REP. DeBRUYCKER, HD 13, Floweree, said he introduced the bill on behalf of the Choteau County Treasurer and County Commissioners. He said that in the 1980's many farms were foreclosed by the FHA. Property taxes were not paid in 90% of those cases. The law states a federal government entity does not have to pay those property taxes. If the farm is leased back to the owner, the taxes are still not paid because the lease is with FHA, not the county, and a lot of tax money is just lost. Page 7, lines 17-19, state that whenever the interest in the property is acquired through foreclosure, the lessor is liable for property taxes. This new language and the technical changes on pages 1 and 2

would obligate the payment of property taxes by the federal government entity.

Proponents' Testimony: There were no proponents.

Opponents' Testimony: There were no opponents.

Questions From Committee Members and Responses:

REP. KELLER asked who is exempt from paying property taxes in foreclosures under current law.

REP. DeBRUYCKER replied only federal government entities are exempt.

REP. McCAFFREE asked if the foreclosure would affect the PILT fund (payment in lieu of taxes).

Gordon Morris, Executive Director, Montana Association of Counties (MACO), said he believes any land taken by a federal agency through a foreclosure procedure would not impact the PILT fund. The PILT is a tax in lieu of the ability of states and local governments to tax federally owned land in the state.

REP. ELLIOTT asked if there is a constitutionality problem.

Dave Woodgerd, Chief Counsel, DOR, said Congress has authorized states to tax the federal government in many foreclosure situations. If Congress has not authorized taxation, the state would not be able to tax even if the bill is passed.

Closing by Sponsor:

REP. DeBRUYCKER said he understands other states are collecting the property taxes. He said this bill would help many counties and they need this authorization.

HEARING ON HOUSE BILL 186

Opening Statement by Sponsor:

REP. ED McCAFFREE, HD 27, Forsyth, said the bill requires the County Treasurer to deposit the 2% penalty on delinquent property taxes in the county general fund. It does not change the current penalty or amount. There are extra administrative costs involved in collecting delinquent taxes. The 2% would fund those costs and, in turn, more delinquent taxes could be collected.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on January 20, 1993, at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 196, HB 207, HJR 3
Executive Action: HB 184 Do Pass As Amended
HB 160 Do Pass

Closing by Sponsor:

REP. DRISCOLL closed saying he hoped the League of Cities and Towns would check further into the amendments with the Committee researcher and the Department of Revenue because the intent of the amendments is to simply freeze the revenue at current level, not reduce any monies to cities and counties.

EXECUTIVE ACTION ON HOUSE BILL 160

Motion: **REP. JIM ELLIOTT MOVED HB 160 DO PASS.**

Discussion: **REP. McCAFFREE** asked if the constitutionality issue had been resolved.

Lee Heiman said the legislature cannot impose taxes on the federal government. However, in this bill the foreclosing agency is required to pay the taxes which is constitutional.

Vote: The motion that HB 160 Do Pass CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 184

Motion: **REP. NELSON MOVED HB 184 DO PASS.**

Discussion: **REP. NELSON** proposed an amendment to strike Section 3 in its entirety. He said the Department of Revenue still wants the bill even if Section 3 is stricken. DOR needs a legislative mandate to conduct the study because the industry will be less critical and more cooperative and their own employees will be more apt to give the study a high work priority.

Motion/Vote: **REP. NELSON** moved to amend the bill by striking Section 3 in its entirety. The motion CARRIED unanimously.

Motion: **REP. ELLIOTT** moved to strike Subsection 2, page 3, in its entirety.

REP. DRISCOLL asked if anyone would come to the meetings if there were no travel expense money. He feared only industry and DOR representatives would be committee members.

REP. FOSTER said if there is to be any credibility to the study it is in the industry and DOR's best interest to have a cross section of committee members representing concerned and interested parties as part of the study committee.

HOUSE STANDING COMMITTEE REPORT

January 20, 1993

Mr. Speaker: We, the committee on Taxation report that House Bill 160 (first reading copy -- white) do pass .

Signed: _____

Bob Gilbert, Chair

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, on February 4, 1993, at 8:05 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)

Members Excused: Senator Bill Yellowtail (D)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 119, HB 149, HB 160
Executive Action: HB 103, HB 119, HB 149, HB 160, SB 228

HEARING ON HB 160

Opening Statement by Sponsor:

Representative Roger DeBruycker, representing House District 13, presented HB 160, which would require the payment of property taxes by any department or agency of the United States when the department or agency acquires interest in the property through foreclosure. Representative DeBruycker said the Treasurer of Choteau County asked him to sponsor this bill. Federal agencies, such as the FHA and SBA, are presently exempt from paying property tax on foreclosures. Under HB 160, the lessor, including a Federal agency, is liable for payment of property taxes when any property is acquired through foreclosure.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Informational Testimony:

Dave Woodgerd, Chief Counsel for the Department of Revenue, said HB 160 will accomplish what Senator Eck's bill, Senate Bill 141, will do, but with just a little different approach. The Department thinks both bills have merit and both bills should go through so the Department can tax these properties.

Questions From Committee Members and Responses:

In answer to questions from Senator Halligan about why Senate Bill 141 and HB 160 were not combined, Mr. Woodgerd said the Department had considered this and other options when they saw that both bills were trying to do the same thing, and decided that the easiest and simplest way was to let both bills go through.

Closing by Sponsor:

Representative DeBruycker said he was unaware of Senate Bill 141, and is presenting HB 160 at the request of his County Treasurer.

EXECUTIVE ACTION ON HB 160

MOTION/VOTE:

Senator Harp moved HB 160 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote. Senator Grosfield will carry the bill on the Senate floor.

HEARING ON HB 119

Opening Statement by Sponsor:

Representative Marian Hanson, representing House District 100, presented HB 119 at the request of the Department of Revenue. The DOR currently uses the 10-year census cycle figures for the distribution of beer and wine tax revenue. The Legislative Auditor recommended using estimates every two years. House Bill 119 allows the Department to adjust population estimates on July 1 following the date of publication of the estimates by the U. S. census bureau.

SENATE STANDING COMMITTEE REPORT

February 4, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 160 (first reading copy -- blue), respectfully report that House Bill No. 160 be concurred in.

Signed: _____
Senator Mike Halligan, Chair

mh Amd. Coord.
SW Sec. of Senate

Grosfield
Senator Carrying Bill

281018SC.Sma

HOUSE BILL NO. 160

INTRODUCED BY DEBRUYCKER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE PAYMENT OF PROPERTY TAXES BY ANY DEPARTMENT OR AGENCY OF THE UNITED STATES WHEN THE DEPARTMENT OR AGENCY ACQUIRES INTEREST IN THE PROPERTY THROUGH FORECLOSURE; ALLOWING A COURT TO DIRECT THE PAYMENT OF PROPERTY TAXES AT THE TIME OF FORECLOSURE; AMENDING SECTIONS 15-6-201, 15-24-1103, AND 71-1-222, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-201, MCA, is amended to read:

"**15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States~~,--the--state,--counties,--cities,--towns,-school-districts~~, except:

(A) if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives); or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

~~(ii)~~(iii) irrigation districts organized under the laws of Montana and not operating for profit;

~~(iii)~~(iv) municipal corporations; and

~~(iv)~~(v) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a

REFERENCE BILL

cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) property owned by institutions of purely public charity and directly used for purely public charitable purposes;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public museums, art galleries, zoos, and observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. This property is also exempt from taxation under 61-3-504(2) and 61-3-537.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes, travel trailers, and campers;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit, and property owned and used by an organization owning and operating facilities for the care of the retired, aged, or chronically ill, which are not operated for gain or profit;

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100;

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic

events and not held or used for private or corporate gain or profit. For purposes of this subsection (q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) provided the tools are owned by the taxpayer, the first $15,000 or less of market value of tools that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, or other personal property;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105; and

(u) beginning January 1, 1994, timber as defined in 15-44-102.

(2) (a) The term "institutions of purely public charity" includes any organization that meets the following requirements:

(i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(ii) The organization accomplishes its activities through absolute gratuity or grants; however, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation or low

emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 2. Section 15-24-1103, MCA, is amended to read:

"**15-24-1103. Federal property held under lease.** When the property is held under lease, other interest, or estate therein that is less than the fee, except under contract of sale, the property ~~shall~~ must be assessed and taxed as for the value, as defined in Title 15, chapter 6, part 1, of ~~such~~ the leasehold, interest, or estate in the property. ~~and the~~ The lien for the tax ~~shall~~ must attach to and be enforced against only the leasehold, interest, or estate in the property. Whenever the interest in the property is acquired through foreclosure, the lessor is liable for property taxes. When the United States authorizes the taxation of the property for the full assessed value of the fee ~~thereof~~, the property ~~shall~~ must be assessed for full assessed value as defined in 15-8-111."

Section 3. Section 71-1-222, MCA, is amended to read:

"**71-1-222. Proceedings in foreclosure suits.** (1) There is ~~but~~ only one action for the recovery of debt or the

enforcement of any right secured by mortgage upon real estate, ~~which~~ and that action must be in accordance with the provisions of this part. In ~~such~~ the action, the court may, by its judgment, direct:

(a) a sale of the encumbered property (or ~~so~~ as much ~~thereof~~ of the property as may be necessary);

(b) the application of the proceeds of the sale, including the payment of property taxes due at the time of foreclosure; and

(c) the payment of the costs of the court, the expenses of the sale, and the amount due the plaintiff.

(2) If it appears from the sheriff's return that the proceeds are insufficient and a balance still remains due, judgment can then be docketed for ~~such~~ the balance against the defendant or defendants personally liable for the debt, and it becomes a lien upon the real estate of ~~such~~ the judgment debtor, as in other cases on which execution may be issued.

(3) ~~No~~ A person holding a conveyance from or under the mortgagor of the property mortgaged or having a lien ~~thereon~~ on the property, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action, does not need to be made a party to ~~such~~ the action. The judgment ~~therein rendered~~ and the proceedings ~~therein had~~ are as conclusive against the party holding ~~such~~

the unrecorded conveyance or lien as if he the holding party had been made a party to the action."

NEW SECTION. **Section 4.** **Effective date -- applicability.** [This act] is effective on passage and approval and applies to any foreclosures occurring after [the effective date of this act].

-End-

SENATE BILL NO. 160

INTRODUCED BY RYE, DEVLIN, LYNCH, BRANDEWIE, ZOOK, DRISCOLL, PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING DISCRIMINATION AGAINST AN EMPLOYEE FOR USE OF A LAWFUL PRODUCT DURING NONWORKING HOURS; AMENDING SECTION 39-2-903, MCA; AND PROVIDING FOR CIVIL DAMAGES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Discrimination prohibited for use of lawful product during nonworking hours -- exceptions.** (1) FOR PURPOSES OF THIS SECTION, "LAWFUL PRODUCT" MEANS A PRODUCT THAT IS LEGALLY CONSUMED, USED, OR ENJOYED AND INCLUDES FOOD, BEVERAGES, AND TOBACCO.

~~(1)~~(2) Except as provided in subsections ~~(2)--and--(3)~~ (3) AND (4), an employer may not refuse to employ or license and may not ~~discharge-or-otherwise~~ discriminate against an individual with respect to compensation, promotion, or the terms, conditions, or privileges of employment because the individual legally uses a lawful product off the employer's premises during nonworking hours.

~~(2)~~(3) Subsection ~~(1)~~ (2) does not apply to:

(a) use of a lawful product that:

(i) ~~impairs~~ AFFECTS IN ANY MANNER ~~AFFECTS-IN-ANY-MANNER~~ an individual's ability to perform job-related employment responsibilities or ~~threatens~~ the safety of other employees; or

(ii) conflicts with a bona fide occupational qualification that is reasonably related to the individual's employment;

(b) an individual who, on a personal basis, has a professional service contract with an employer and the unique nature of the services provided authorizes the employer, as part of the service contract, to limit the use of certain products; or

(c) an employer that is a nonprofit organization that, as one of its primary purposes or objectives, discourages the use of one or more lawful products by the general public.

~~(3)~~(4) An employer does not violate this section if the employer takes action based on the belief that the employer's actions are permissible under an established substance abuse or alcohol program or policy, professional contract, or collective bargaining agreement.

~~(4)~~(5) An employer may offer, impose, or have in effect a health, disability, or life insurance policy that makes distinctions between employees for the type or price of coverage based on the employees' ~~recreational-activities--or~~ use of a product if:

(a) differential rates assessed against employees reflect actuarially justified differences in providing employee benefits;

(b) the employer provides an employee with written notice delineating the differential rates used by the employer's insurance carriers; and

(c) the distinctions in the type or price of coverage is not used to expand, limit, or curtail the rights or liabilities of a party in a civil cause of action.

NEW SECTION. **Section 2.** Civil action -- LIMITATION. An (1) EXCEPT AS PROVIDED IN SUBSECTION (2), AN individual who is discharged, discriminated against, or denied employment in violation of [section 1] may file a civil action ~~against an employer within 1 year of the alleged violation and~~ AGAINST AN EMPLOYER WITHIN 1 YEAR OF THE ALLEGED VIOLATION AND THE COURT ~~may receive actual damages, court costs,~~ MAY REQUIRE ANY REASONABLE MEASURE TO CORRECT THE DISCRIMINATORY PRACTICE AND TO RECTIFY THE HARM, PECUNIARY OR OTHERWISE, TO THE PERSON DISCRIMINATED AGAINST ~~and~~ AND MAY ALLOW ~~reasonable attorney fees~~ REASONABLE ATTORNEY FEES TO THE PREVAILING PARTY ~~FOR REMEDIES AS PROVIDED IN 39-2-905~~.

(2) PRIOR TO FILING A CIVIL ACTION UNDER SUBSECTION (1), AN EMPLOYEE SHALL, WITHIN 120 DAYS OF THE ALLEGED VIOLATION, INITIATE ANY INTERNAL GRIEVANCE PROCEDURE AVAILABLE. IF A GRIEVANCE PROCEDURE IS NOT EXHAUSTED WITHIN

120 DAYS, THE EMPLOYEE MAY FILE A CIVIL ACTION.

SECTION 3. SECTION 39-2-903, MCA, IS AMENDED TO READ:

"**39-2-903. Definitions.** In this part, the following definitions apply:

(1) "Constructive discharge" means the voluntary termination of employment by an employee because of a situation created by an act or omission of the employer which an objective, reasonable person would find so intolerable that voluntary termination is the only reasonable alternative. Constructive discharge does not mean voluntary termination because of an employer's refusal to promote the employee or improve wages, responsibilities, or other terms and conditions of employment.

(2) "Discharge" includes a constructive discharge as defined in subsection (1) and any other termination of employment, including resignation, elimination of the job, layoff for lack of work, failure to recall or rehire, and any other cutback in the number of employees for a legitimate business reason.

(3) "Employee" means a person who works for another for hire. The term does not include a person who is an independent contractor.

(4) "Fringe benefits" means the value of any employer-paid vacation leave, sick leave, medical insurance plan, disability insurance plan, life insurance plan, and

pension benefit plan in force on the date of the termination.

(5) "Good cause" means reasonable job-related grounds for dismissal based on a failure to satisfactorily perform job duties, disruption of the employer's operation, or other legitimate business reason. The legal use of a lawful product by an individual off the employer's premises during nonworking hours is not a legitimate business reason, UNLESS THE EMPLOYER ACTS WITHIN THE PROVISIONS OF [SECTION 1(3) OR (4)].

(6) "Lost wages" means the gross amount of wages that would have been reported to the internal revenue service as gross income on Form W-2 and includes additional compensation deferred at the option of the employee.

(7) "Public policy" means a policy in effect at the time of the discharge concerning the public health, safety, or welfare established by constitutional provision, statute, or administrative rule."

NEW SECTION. **Section 4.** Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 39, chapter 2, part 3, and the provisions of Title 39, chapter 2, part 3, apply to [sections 1 and 2].

-End-